

# Union Calendar No. 487

110TH CONGRESS  
2D SESSION

# H. R. 5531

[Report No. 110-764]

To amend the Homeland Security Act of 2002 to clarify criteria for certification relating to advanced spectroscopic portal monitors, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 5, 2008

Mr. KING of New York (for himself and Mr. McCAUL of Texas) introduced the following bill; which was referred to the Committee on Homeland Security

JULY 22, 2008

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on March 5, 2008]

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## A BILL

To amend the Homeland Security Act of 2002 to clarify criteria for certification relating to advanced spectroscopic portal monitors, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2       *This Act may be cited as the “Next Generation Radi-*  
3 *ation Screening Act of 2008”.*

4 **SEC. 2. MEMORANDUM OF UNDERSTANDING REGARDING**  
5 **ADVANCED SPECTROSCOPIC PORTAL MON-**  
6 **ITORS.**

7       *(a) IN GENERAL.—Title XIX of the Homeland Secu-*  
8 *rity Act of 2002 is amended by adding at the end the fol-*  
9 *lowing new sections:*

10 **“SEC. 1908. ADVANCED SPECTROSCOPIC PORTAL MON-**  
11 **ITORS.**

12       *“(a) FINDINGS.—Congress finds the following:*

13               *“(1) The consequences of radiological or nuclear*  
14 *terrorism would be catastrophic.*

15               *“(2) A system such as the Advanced*  
16 *Spectroscopic Portal (ASP) is intended to improve*  
17 *the process of screening passengers and cargo to pre-*  
18 *vent the illicit transport of radiological and nuclear*  
19 *material.*

20               *“(3) A system such as the ASP can always be*  
21 *improved, even after it is deployed.*

22               *“(4) There is no upper limit to the functionality*  
23 *that can be incorporated into an engineering project*  
24 *of this magnitude.*

25               *“(5) Delaying deployment of the ASP to increase*  
26 *functionality beyond what is minimally required for*

1        *deployment may limit the ability of the United States*  
2        *to screen passengers and cargo for radiological and*  
3        *nuclear material.*

4            “(6) *There are operational differences between*  
5        *primary and secondary screening procedures. Consid-*  
6        *eration should be given to the implication these dif-*  
7        *ferences have on the minimum functionality for sys-*  
8        *tems deployed for use in primary and secondary*  
9        *screening procedures.*

10        “(b) *AGREEMENT ON FUNCTIONALITY OF ADVANCED*  
11        *SPECTROSCOPIC PORTAL MONITORS.—The Director of the*  
12        *Domestic Nuclear Detection Office and the Commissioner*  
13        *of Customs and Border Protection shall enter into an agree-*  
14        *ment regarding the minimum required functionality for the*  
15        *deployment of ASP by United States Customs and Border*  
16        *Protection (CBP).*

17        “(c) *REPORT TO CONGRESS.—Not later than 60 days*  
18        *after the date of the enactment of this section, the Secretary*  
19        *shall provide Congress with the signed memorandum of un-*  
20        *derstanding between the Office and CBP.*

21        “**SEC. 1909. CRITERIA FOR CERTIFICATION.**

22        “(a) *FINDINGS.—Congress finds the following:*

23            “(1) *In developing criteria for Advanced*  
24        *Spectroscopic Portal (ASP) performance, special con-*  
25        *sideration should be given to the unique challenges as-*

sociated with detecting the presence of illicit radiological or nuclear material that may be masked by the presence of radiation from naturally occurring radioactive material or legitimate radioactive sources such as those associated with medical or industrial use of radiation.

“(2) Title IV of division E of the Consolidated Appropriations Act, 2008 (Public Law 110–161) requires the Secretary to submit to Congress a report certifying that ‘a significant increase in operational effectiveness will be achieved’ with the ASP before ‘funds appropriated under this heading shall be obligated for full-scale procurement of Advanced Spectroscopic Portal Monitors’, and requires that ‘the Secretary shall submit separate and distinct certifications prior to the procurement of Advanced Spectroscopic Portal Monitors for primary and secondary deployment that address the unique requirements for operational effectiveness of each type of deployment.’.

“(b) SPECIFICATION OF SIGNIFICANT INCREASE IN OPERATIONAL EFFECTIVENESS.—

“(1) IN GENERAL.—The Secretary shall, in accordance with the requirements of title IV of division E of the Consolidated Appropriations Act, 2008, and

1       *in consultation with the National Academies, develop*  
2       *quantitative metrics that demonstrate any significant*  
3       *increased operational effectiveness (or lack thereof) of*  
4       *deploying the ASP in Primary and Secondary*  
5       *Screening sites, as determined by United States Cus-*  
6       *toms and Border Protection (CBP).*

7               “(2) *METRICS.—The metrics referred to in para-*  
8       *graph (1) shall include the following:*

9                       “(A) *A quantitative definition of ‘signifi-*  
10       *cant increase in operational effectiveness’.*

11                      “(B) *All relevant threat materials.*

12                      “(C) *All relevant masking scenarios.*

13                      “(D) *Cost benefit analysis in accordance*  
14       *with the Federal Accounting Standards Advisory*  
15       *Board Generally Accepted Accounting Principles.*

16                      “(E) *Any other measure the Director and*  
17       *the Commissioner determine appropriate.*

18       “(c) *CONSIDERATION OF EXTERNAL REVIEWS IN THE*  
19       *DECISION TO CERTIFY.—In determining whether or not to*  
20       *certify that the ASP shows a significant increase in oper-*  
21       *ational effectiveness, the Secretary may consider the fol-*  
22       *lowing:*

23                      “(1) *Relevant reports on the ASP from the Gov-*  
24       *ernment Accountability Office.*

1           “(2) *An assessment of the ASP by the Inde-*  
 2           *pendent Review Team led by the Homeland Security*  
 3           *Institute.*

4           “(3) *An assessment of the ASP in consultation*  
 5           *with the National Academies.*

6           “(4) *Any other information the Secretary deter-*  
 7           *mines relevant.*

8           **“SEC. 1910. AUTHORIZATION OF SECURING THE CITIES INI-**  
 9           **TIATIVE.**

10          “(a) *FINDINGS.—Congress finds the following:*

11               “(1) *The Securing the Cities Initiative of the De-*  
 12               *partment uses next generation radiation detection*  
 13               *technology to detect the transport of nuclear and radi-*  
 14               *ological material in urban areas by terrorists or other*  
 15               *unauthorized individuals.*

16               “(2) *The technology used by partners in the Se-*  
 17               *curing the Cities Initiative leverages Advanced*  
 18               *Spectroscopic Portal (ASP) technology used at ports*  
 19               *of entry.*

20               “(3) *The Securing the Cities Initiative has fos-*  
 21               *tered unprecedented collaboration and coordination*  
 22               *among its Federal, State, and local partners.*

23          “(b) *AUTHORIZATION OF APPROPRIATIONS.—There is*  
 24               *authorized to be appropriated to the Director of the Domes-*  
 25               *tic Nuclear Detection Office of the Department \$40,000,000*

1 *for fiscal year 2009 and such sums as may be necessary*  
 2 *for each subsequent fiscal year for the Securing the Cities*  
 3 *Initiative.”.*

4 *(b) CONFORMING AMENDMENT.—The table of contents*  
 5 *in section 1(b) of the Homeland Security Act of 2002 is*  
 6 *amended by inserting after the item relating to section 1907*  
 7 *the following new items:*

*“Sec. 1908. Advanced spectroscopic portal monitors.*

*“Sec. 1909. Criteria for certification.*

*“Sec. 1910. Authorization of Securing the Cities Initiative.”.*

Amend the title so as to read: “A bill to amend the Homeland Security Act of 2002 to clarify criteria for certification relating to Advanced Spectroscopic Portal monitors, and for other purposes.”.

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